

§ 87.12

legislation authorizing the use or distribution of the funds, the Commissioner shall invest such funds pursuant to 25 U.S.C. 162a. Investments of judgment funds and of investment income therefrom will continue to be made by the Commissioner after the approval of a plan or enactment of use or distribution legislation to the extent funds remain available for investment under such plan or legislation, and provided that thereafter investments of judgment funds made available for tribal use are not undertaken by the tribe pursuant to authorizing law. Invested judgment funds, including investment income therefrom, shall be withdrawn from investment only as currently needed under approved plans or legislation authorizing the use or distribution of such funds.

§ 87.12 Insuring the proper performance of approved plans.

A timetable prepared in cooperation with the tribal governing body shall be included in the plan submitted by the Secretary for the implementation of all programing and enrollment aspects of a plan. At any time within one calendar year after the approval date of a plan, the Area Director shall report to the Commissioner on the status of the implementation of the plan, including all enrollment and programing aspects, and thenceforth shall report to the Commissioner on an annual basis regarding any remaining or unfulfilled aspects of a plan. The Area Director shall include in his first and all subsequent annual reports a statement regarding the maintenance of the timetable, a full accounting of any per capita distribution, and the expenditure of all programing funds. The Commissioner shall report the deficient performance of any aspect of a plan to the Secretary, together with the corrective measures he has taken or intends to take.

PART 88—RECOGNITION OF ATTORNEYS AND AGENTS TO REPRESENT CLAIMANTS

Sec.

88.1 Employment of attorneys.

88.2 Employment by tribes or individual claimants.

25 CFR Ch. I (4–1–01 Edition)

AUTHORITY: 5 U.S.C. 301.

CROSS REFERENCES: For law and order regulations on Indian reservations, see part 11 of this chapter. For probate procedure, see part 15 of this chapter. For regulations governing the admission of attorneys to practice before the Department of the Interior and the offices and bureaus thereof, see 43 CFR part 1. For regulations governing the execution of attorney contracts with Indians, see part 89 of this subchapter.

§ 88.1 Employment of attorneys.

(a) Indian tribes organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461–479), as amended, may employ legal counsel. The choice of counsel and the fixing of fees are subject under 25 U.S.C. 476 to the approval of the Secretary of the Interior or his authorized representative.

(b) Attorneys may be employed by Indian tribes not organized under the Act of June 18, 1934, under contracts subject to approval under 25 U.S.C. 81 and the Reorganization Plan No. 3 of 1950, 5 U.S.C. 481, note, by the Secretary of the Interior or his authorized representative.

(c) Any action of the authorized representative of the Secretary of the Interior which approves, disapproves or conditionally approves a contract pursuant to paragraph (a) or (b) of this section shall be final.

(d) Practice of such attorneys before the Bureau of Indian Affairs and the Department of the Interior is subject to the requirements of 43 CFR 1.1 through 1.7.

[27 FR 11548, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 88.2 Employment by tribes or individual claimants.

All such attorneys or agents seeking approval of their employment by Indian tribes or desiring to represent individual claimants before the Indian Bureau shall be required to comply fully with the regulations of the Department promulgated September 27, 1917, governing admission to practice, and to take the oath of allegiance and to support the Constitution of the United States, as required by section

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3478 of the United States Revised Statutes (31 U.S.C. 204).

[22 FR 10538, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

PART 89—ATTORNEY CONTRACTS WITH INDIAN TRIBES

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PAYMENT OF TRIBAL ATTORNEY FEES WITH APPROPRIATED FUNDS

- 89.40 General policy.
- 89.41 Exceptions to policy.
- 89.42 Factors to be considered.
- 89.43 Procedures.

AUTHORITY: 5 U.S.C. 301; secs. 89.1 to 89.6 also issued under 25 U.S.C. 476; secs. 89.7 to 89.29 also issued under 25 U.S.C. 81; secs. 89.30 to 89.35 also issued under 25 U.S.C. 2, 9 and 82(a); secs. 89.40 to 89.43 also issued under 25 U.S.C. 13, 450 et. seq.

CROSS REFERENCE: For recognition of attorneys and agents to represent claimants, see part 88 of this subchapter.

TRIBES ORGANIZED UNDER THE INDIAN REORGANIZATION ACT

§ 89.1 Contracts with organized tribes.

(a) Negotiation and execution of tribal attorney contracts with Indian tribes organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461-479), as amended, shall be in accordance with the provisions of the approved constitution or charter of the respective tribes.

(b) The Secretary of the Interior or his authorized representative is authorized to approve pursuant to 25 U.S.C. 476 the selection of counsel and the amount of fees and expenses to be paid under any such contract.

[27 FR 11548, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 89.2 Admission to practice.

Attorneys employed by tribes organized under the Indian Reorganization Act, shall be required to be admitted to practice before the Interior Department and the bureaus thereof, under the provisions of the act of July 4, 1884 (23 Stat. 101; 5 U.S.C. 493).

[22 FR 10538, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

CROSS REFERENCE: For rules and regulations governing admission to practice before the Interior Department and the bureaus thereof, see 43 CFR part 1.

§ 89.3 Tentative form of contract.

A tribal council or representative body having authority to employ legal counsel in behalf of an organized tribe, may, if it desires, obtain a tentative form of contract by written request directed to the office of any area director or agency superintendent, or to the Commissioner of Indian Affairs. Requests for forms should include a statement of the scope of the intended employment; that is, whether an attorney is desired for investigation and prosecution of tribal claims against the United States, or as a general legal counsel in connection with the ordinary business of the tribe, or specific